

37 C.F.R. §1.499. In this regard, the Examiner must explain why each group identified lacks a single general inventive concept.

As with the prior restriction requirement, the Examiner has raised issues of patentability as to individual claims *in advance of any action on the merits* (See MPEP §810). Here, Applicant cannot respond or traverse this conclusion without providing an election and no *prima facie* case supports the Examiner's conclusion regarding novelty.

The Examiner asserts her analysis does not disregard the claims' unity of invention or special technical features, yet by asserting lack of novelty the Examiner nonetheless reads the sole composition of nicotinic acid or nicotinamide and riboflavin, and the sole manipulative step that provides this composition, out of each of the claims. This is substantially at odds with proper practice in advance of examination on the merits, and operates to the detriment of Applicant whose available claims and their scope are unduly restricted.

Therefore, Applicant objects both to the Examiner's arguments in support of the election and to her unsupported contention of lack of novelty. Applicant respectfully requests reconsideration and withdrawal of the requirement.

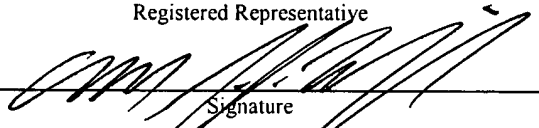
Should the Examiner maintain the election of species requirement, Applicant specifically reserves its rights to later petition the Commissioner for its reversal and withdrawal.

37 C.F.R. §1.144.

Respectfully submitted,

By: 

Charles T. J. Weigell
Reg. No. 43,398
BRYAN CAVE LLP
1290 Avenue of the Americas
New York, N.Y. 10104
(212) 541-1298

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 15, 2003	
(Date of Deposit)	
Charles T. J. Weigell	
Name of applicant, assignee, or Registered Representative	
	
Signature	
9/15/03	
Date of Signature	